UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF OHIO WESTERN DIVISION

ALMA McCARTT,

Plaintiff

v. C-1-09-861

MICHAEL J. ASTRUE, COMMISSIONER OF SOCIAL SECURITY,

Defendant

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 11) and plaintiff's objections thereto (doc. no. 13). The Magistrate Judge concluded that plaintiff failed to promptly make any claim that she had not timely received the October 2007 notice denying her initial application. By failing to either file a timely request for hearing (within 60days of January 22, 2008) or, alternatively to move for an extension of time in which to file a request for reconsideration of the original denial, plaintiff forfeited the "ends of justice" argument she now presents to this Court. The Magistrate Judge therefore recommended that defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction (doc. no. 5) be granted and this case be dismissed with prejudice.

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Plaintiff objects to the Judge's Report and Recommendation on the

grounds that his findings are contrary to law.

CONCLUSION

Upon a de novo review of the record, especially in light of plaintiff's

objections, the Court finds that plaintiff's objections have either been

adequately addressed and properly disposed of by the Judge or present no

particularized arguments that warrant specific responses by this Court. The

Court finds that the Magistrate Judge has accurately set forth the controlling

principles of law and properly applied them to the particular facts of this case

and agrees with the Judge.

Accordingly, the Court hereby ADOPTS AND INCORPORATES BY

REFERENCE the Report and Recommendation of the United States Magistrate

Judge (doc. no. 11). Defendant's Motion to Dismiss for Lack of Subject Matter

Jurisdiction (doc. no. 5) is GRANTED and this case is DISMISSED for lack of

subject matter jurisdiction.

This case is TERMINATED on the docket of this Court.

IT IS SO ORDERED.

s/Herman J. Weber

Herman J. Weber, Senior Judge

United States District Court